

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

NOTE.—There are two Extraordinary issues to the Official Gazette, Series I No. 15 dated 14-7-94 as follows:

- 1) Extraordinary dated 14-7-1994 from pages 279 to 328 regarding Notification from Law Department (Legal and Legislative Affairs).
- 2) Extraordinary 2 dated 19-7-94 from pages 329 to 330 regarding Notification from Transport Department.

### GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

#### Notification

12-1-94/LA

The Constitution (Seventy-fifth Amendment) Act, 1993 which has been passed by Parliament and assented to by the President of India on 5th February, 1994, and published in the Gazette of India, Extraordinary, Part II, Section I, dated 8th February, 1994, is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 20th June, 1994.

#### THE CONSTITUTION (SEVENTY-FIFTH AMENDMENT) ACT, 1993

#### AN ACT

further to amend the Constitution of India

Be it enacted by Parliament in the Forty-fourth year of the Republic of India as follows:—

1. *Short title and Commencement.*—(1) This Act may be called the Constitution (Seventy-fifth Amendment) Act, 1993.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of Article 323 B.*—In article 323B of the Constitution, in clause (2),—

(a) sub-clauses (h) and (i) shall be re-lettered as sub-clauses (i) and (j), and before sub-clause (i), as so re-lettered, the following sub-clause shall be inserted, namely:—

“(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;”;

#### Notification

10-2-92/LA (Part)

The Air Corporations (Transfer of Undertakings and Repeal) Ordinance, 1994 (No. 4 of 1994), which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 29-1-1994, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 21st February, 1994.

#### MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th January, 1994  
Magha 9, 1915 (Saka)

#### THE AIR CORPORATIONS (TRANSFER OF UNDERTAKINGS AND REPEAL) ORDINANCE, 1994

No. 4 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An ordinance to provide for the transfer and vesting of the undertakings of Indian Air Lines and Air India respectively to and in the companies formed and registered as Indian Air Lines Limited and Air India Limited and for matters connected therewith or incidental thereto and also to repeal the Air Corporations Act, 1953.

WHEREAS the Air Corporations (Transfer of Undertakings and Repeal) Bill, 1992 has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Air Corporations (Transfer of Undertakings and Repeal) Ordinance, 1994.

(2) It shall come into force at once.

2. *Definitions.*— In this Ordinance, unless the context otherwise requires,—

(a) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) “company” means “Indian Airlines Limited” or “Air India Limited” formed and registered under the Companies Act, 1956;

1 of 1956.

(c) “corporations” means “Indian Airlines” and “Air India” established under section 3 of the Air Corporations Act, 1953 (hereinafter referred to as the principal Act), and “corporation” means either of the corporations;

27 of 1953.

(3) *Undertakings of corporations to vest in Companies.*— On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in,—

(a) Indian Airlines Limited, the undertaking of Indian Airlines; and

(b) Air India Limited, the undertaking of Air India.

4. *General effect of vesting undertakings in the companies.*— (1) The undertaking of a corporation which is transferred to, and which vest in, a company under section 3 shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, real or personal, corporeal or incorporeal, in possession, reservation, present or contingent, of whatever nature and wheresoever situate, including lands, works, workshops, aircrafts, cash balances, capital reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of that corporation in relation to its undertaking, whether within or outside India, all books of accounts and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of that corporation in relation to its undertaking.

(2) All contracts and working arrangements subsisting immediately before the appointed day and affecting a corporation shall, in so far as they relate to the undertaking of that corporation, cease to have effect or to be enforceable against that corporation and shall be of as full force and effect against or in favour of the company in which the undertaking has vested by virtue of this Ordinance and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the appointed day by or against a corporation in relation to its undertaking may, as from that day, be continued and enforced by or against the company in which it has vested by virtue of this Ordinance, as it might have been enforced by or against that corporation if this Ordinance

had not been passed, and shall cease to be enforceable by or against that corporation.

5. *Licences, etc. to be deemed to have been granted to companies.*— With effect from the appointed day, all licences, permits, quotas and exemptions; granted to a corporation in connection with the affairs and business of that corporation under any law for the time being in force shall be deemed to have been granted to the company in which the undertaking of that corporation has vested.

6. *Tax exemption or benefit to continue to have effect.*— (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to a corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the company in which the undertaking of that corporation has vested.

43 of 1961.

(2) Where any payment made by a corporation is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the Act made applicable to the corporation were operative in relation to the company in which the undertaking of that corporation has been vested.

43 of 1961.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

43 of 1961.

7. *Guarantee to be operative.*— Any guarantee given for or in favour of a corporation with respect to any loan or lease finance shall continue to be operative in relation to the company in which the undertaking of that corporation has vested by virtue of this Ordinance.

8. *Provisions in respect of officers and other employees of corporations.*— (1) Every officer or other employee of a corporation (except a Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of the corporation) serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in a company by virtue of this Ordinance become, as from the appointed day an officer or other employee, as the case may be, of the company in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, in-

surance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under that corporation if its undertaking had not vested in the company and shall continue to do so as an officer or other employee, as the case may be, of the company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to be the officer or other employee of the company, within such period.

(2) Where an officer or other employee of a corporation opts under sub-section (1) not to be in the employment or service of the company in which the undertaking of that corporation has vested, such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of a corporation to a company shall not entitle such officer or other employee to any compensation under the said Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.

(4) The officers and other employees who have retired before the appointed day from the service of a corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the company in which the undertaking of that corporation has vested.

(5) The trusts of the Provident Fund or Pilots Group Insurance and Superannuation Scheme of the corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the company as was being done hitherto in the corporation. Tax exemption granted to Provident Fund or Pilots Group Insurance and Superannuation Scheme would continue to be applied to the company.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of a corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the which or a substantial part of the business and affairs of that corporation shall be entitled to any compensation against that corporation or against the company, as the case may be, for the loss of office or for the premature termination of any contract of management entered into by him with that corporation.

1 of 1956.

9. *Power of Central Government to give directions.*— The Central Government may give to a company directions as to the exercise and performance by that company of its functions, and that company shall be bound to give effect to any such directions.

10. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the coming into force of this Ordinance.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

11. *Repeal of Act 27 of 1953 and corporations to cease to exist.*— (1) On the appointed day, the Air Corporations Act, 1953 shall stand repealed.

(2) The corporation shall, with the repeal of the Air Corporations Act, 1953, cease to exist.

SHANKER DAYAL SHARMA  
President

A. C. C. UNNI,  
Additional Secretary to the  
Government of India.

Law (Establishment) Department  
Office of the Chief Electoral Officer

#### Notification

3-1-87/ELEC-Vol-II

The following Notification No. 56/94(4), dated 10-6-1994 issued by the Election Commission of India, New Delhi is hereby published for general information.

B. S. Subbanna, Law Secretary/Joint Chief Electoral Officer.

Panaji, 23rd June, 1994.

Election Commission of India

Nirvachan Sadan,  
Ashoka Road,  
New Delhi - 110001.

Dated: 10th June, 1994.

#### Notification

No. 56/94(4).— Whereas, the Election Commission, by its order dated the 18th May, 1994, in the dispute relating to Jharkand Mukti Morcha, a recognised State Party in Bihar, under paragraph 15 of the Election Symbols (Reservation and Allotment) Order, 1968, has frozen the symbol 'Bow and Arrow' reserved for the said Jharkhand Mukti Morcha in the State of Bihar, and has directed that neither of the rival or splinter groups of the party shall use that symbol, nor shall they use the name

'Jharkhand Mukti Morcha' simplicitor, till the final decision in the main dispute;

And Whereas, the Commission by its said order dated the 18th May, 1994 has also directed that the two groups of the Jharkhand Mukti Morcha — one led by Shri Shibu Soren and the other by Shri Krishna Marandi shall be known and shall describe themselves, as 'Jharkhand Mukti Morcha (Shibu Soren Group)' and 'Jharkhand Mukti Morcha (Krishna Marandi Group)' respectively till the final decision in the main dispute;

Now, Therefore, in pursuance of clause (b) of sub-paragraph (1) and sub-paragraph (2) of paragraph 17 of the Election Symbols (Reservation and Allotment) Order, 1968, the Election Commission hereby makes the following amendments to its Notification No. 56/92, dated the 7th January, 1993, published as O. N. 2(E) in the Gazette of India, Extraordinary, Part-II, Section 3(iii) on 8-1-93 and as amended from time to time namely: —

In Table II appended to the said notification, against 'Bihar' in column 1, for the existing entries in columns 2, 3 and 4, the following entries shall be substituted: —

"1. Jharkhand Mukti Morcha	Bow and Arrow	Bariatu Road, Ranchi-834008, Bihar.
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(Dispute relating to Jharkhand Mukti Morcha pending before the Election Commission, symbol

'Bow and Arrow' shall remain frozen until further orders of the Commission)

1A. Jharkhand Mukti Morcha (Shibu Soren Group)

1B. Jharkhand Mukti Morcha (Krishna Marandi Group)".

By order,

K. P. G. KUTTY  
Secretary

## Government Press

### NOTICE

The subscribers to the Official Gazette are hereby informed that the subscription rates have been revised with effect from 1st July, 1994.

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